

Date May 20, 2019

HOLD HEARING FOR APPROVAL OF DOCUMENTS FOR VACATION OF PORTIONS OF WALNUT STREET RIGHT-OF-WAY AND 10TH STREET RIGHT-OF-WAY ALL ADJOINING 1000 WALNUT STREET AND CONVEYANCE OF A PERMANENT EASEMENT FOR AIR SPACE ABOVE CITY-OWNED PROPERTY THEREIN TO JANSSEN LODGING, INC. FOR \$8,300.00

WHEREAS, Janssen Lodging, Inc., owner of 1000 Walnut Street, Des Moines, Iowa, has offered to the City the purchase price of \$8,300.00 for the purchase of a Permanent Easement for Air Space Above City-Owned Property (hereinafter "Easement") within a portion of Walnut Street right-of-way and a portion of 10th Street right-of-way all adjoining 1000 Walnut Street, Des Moines, Iowa, hereinafter more fully described, to allow for the permanent encroachment of entrance canopy encroachments into the vacated right-of-way, which price reflects the fair market value of the Easement as determined by the City's Real Estate Division; and

WHEREAS, there is no public need or benefit for the air rights proposed to be vacated and conveyed, and the public would not be inconvenienced by reason of the vacation of said right-of-way and conveyance of the Easement within said City Property; and

WHEREAS, on May 6, 2019, by Roll Call No. 19-0703, it was duly resolved by the City Council of the City of Des Moines, Iowa, that the proposed vacation and conveyance of the Permanent Easement for Air Space Above City-Owned Property be set for hearing on May 20, 2019, at 5:00 p.m., in the City Council Chambers, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa; and

WHEREAS, due notice of said proposal to vacate a 10.0-foot by 16.0-foot segment of the south side of Walnut Street right-of-way, and a 10.0-foot by 35.0-foot segment of the west side of 10th Street right-of-way, all adjoining 1000 Walnut Street, Des Moines, Iowa, and convey a Permanent Easement for Air Space Above City-Owned Property in such vacated right-of-way, was given to all necessary parties as provided by law, setting forth the time and place for hearing on said proposal; and

WHEREAS, in accordance with City Council direction, those interested in the proposed vacation and conveyance, both for and against, have been given an opportunity to be heard with respect thereto and have presented their views to the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. Upon due consideration of the facts and statements of interested persons, any and all objections to the proposed vacation of a 10.0-foot by 16.0-foot segment of the south side of Walnut Street right-of-way, and a 10.0-foot by 35.0-foot segment of the west side of 10th Street right-of-way, all adjoining 1000 Walnut Street, Des Moines, Iowa and conveyance of a Permanent Easement for Air Space Above City-Owned Property in such vacated right-of-way, as described herein, are hereby overruled and the hearing is closed.

Date May 20, 2019

2. There is no public need or benefit for the air space within street the right-of-way proposed to be vacated, and the public would not be inconvenienced by reason of the vacation of said air space within the street right-of-way, legally described as follows, and said vacation is hereby approved:

Area 1

All that part of the Walnut Street Right of Way lying north of and abutting Lot 4, West Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa being more particularly described as follows:

Commencing at the Northeast corner of said Lot 4; thence North 89°22'48" West along the north line of said Lot 4, a distance of 43.29 feet to the Point of Beginning; thence continuing North 89°22'48" West, along the north line of said Lot 4, a distance of 16.00 feet; thence North 00°37'12" East, a distance of 10.00 feet; thence South 89°22'48" East, a distance of 16.00 feet; thence South 00°37'12" West, a distance of 10.00 feet to the Point of Beginning, containing 160 square feet and lying above a elevation plane of 48.00, City Datum, and below a plane elevation of 60.00, City Datum, with the ground elevation being at 39.70, City Datum.

Area 2

All that part of the 10th Street Right of Way lying east of and abutting Lot 4, West Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa being more particularly described as follows:

Commencing at the Northeast corner of said Lot 4; thence South 01°05'59" West along the east line of said Lot 4, a distance of 29.73 feet to the Point of Beginning; thence South 88°54'01" East, a distance of 10.00 feet; thence South 01°05'59" West, a distance of 35.00 feet; thence North 88°54'01" West, a distance of 10.00 feet to a point on the east line of said Lot 4; thence North 01°05'59" East, a distance of 35.00 feet to the Point of Beginning, containing 350 square feet and lying above a plane elevation of 48.00 and below a plan elevation of 60.00, City Datum, and the ground elevation being at 39.70, City Datum.

3. The proposed conveyance of a Permanent Easement for Air Space Above City-Owned Property in such vacated street right-of-way, as legally described below and to the grantees and for the consideration identified below, subject to reservation of easements therein, is hereby approved:

Grantee: Janssen Lodging, Inc.
Consideration: \$8,300.00
Legal Description:

Area 1

All that part of the vacated Walnut Street Right of Way lying north of and abutting Lot 4, West Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa being more particularly described as follows:

Date May 20, 2019

Commencing at the Northeast corner of said Lot 4; thence North 89°22'48" West along the north line of said Lot 4, a distance of 43.29 feet to the Point of Beginning; thence continuing North 89°22'48" West, along the north line of said Lot 4, a distance of 16.00 feet; thence North 00°37'12" East, a distance of 10.00 feet; thence South 89°22'48" East, a distance of 16.00 feet; thence South 00°37'12" West, a distance of 10.00 feet to the Point of Beginning, containing 160 square feet and lying above a elevation plane of 48.00, City Datum, and below a plane elevation of 60.00, City Datum, with the ground elevation being at 39.70, City Datum.

Area 2

All that part of the vacated 10th Street Right of Way lying east of and abutting Lot 4, West Fort Des Moines, an Official Plat, Des Moines, Polk County, Iowa being more particularly described as follows:

Commencing at the Northeast corner of said Lot 4; thence South 01°05'59" West along the east line of said Lot 4, a distance of 29.73 feet to the Point of Beginning; thence South 88°54'01" East, a distance of 10.00 feet; thence South 01°05'59" West, a distance of 35.00 feet; thence North 88°54'01" West, a distance of 10.00 feet to a point on the east line of said Lot 4; thence North 01°05'59" East, a distance of 35.00 feet to the Point of Beginning, containing 350 square feet and lying above a plane elevation of 48.00 and below a plan elevation of 60.00, City Datum, and the ground elevation being at 39.70, City Datum.

4. The Mayor is authorized and directed to sign the Offer to Purchase and Permanent Easement for Air Space Above City-Owned Property for the conveyance as identified above, and the City Clerk is authorized and directed to attest to the Mayor's signature.
5. Upon proof of payment of the consideration, plus \$113.00 for publication and recording costs, the City Clerk is authorized and directed to forward the original of the Permanent Easement for Air Space Above City-Owned Property, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Real Estate Division of the Engineering Department for the purpose of causing said documents to be recorded.
6. The Real Estate Division Manager is authorized and directed to forward the original of the Permanent Easement for Air Space Above City-Owned Property, together with a certified copy of this resolution and of the affidavit of publication of the notice of this hearing, to the Polk County Recorder's Office for the purpose of causing these documents to be recorded.
7. Upon receipt of the recorded documents back from the Polk County Recorder, the Real Estate Division Manager shall mail the original of the Permanent Easement for Building Encroachment and a copy of the other documents to the grantees.
8. Non-project related land sale proceeds are used to support general operating budget expenses: Org – EG064090.

★ Roll Call Number

19.0827

Agenda Item Number

50

Page 4

Date May 20, 2019

Moved by Mandelbaum to adopt.

APPROVED AS TO FORM:

Ann DiDonato
Ann DiDonato, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
COLEMAN	✓			
GATTO	✓			
GRAY	✓			
MANDELBAUM	✓			
WESTERGAARD	✓			
TOTAL	7			

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED APPROVED

M. Frank Cownie Mayor

Diane Rauh City Clerk